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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,919	11/03/2003	Stephen Bowling		3897

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EXAMINER

MENDIRATTA, VISHU K

ART UNIT PAPER NUMBER

3711

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/699,919

Applicant(s)

BOWLING, STEPHEN

Examiner

Vishu K Mendiratta

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 27-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 27-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. Claims 31-34 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The method is unclear and not capable of being practiced. In the independent claim "the second sphere is inside the playing field" and not clear how it can attack from outside. Also is a "playing field" in claim 27 same as a "playing area" in 31. It is not possible to practice a method when proper sequential steps are not available

Claim Rejections - 35 USC § 103

2. Claims 21-26, 35-40 rejected under 35 U.S.C. 103(a) as obvious over Dewa (6585265) in view of Gilmore (4030762).

Dewa teaches a plurality of playing pieces with visible character (Fig.6A-D, 29), information indicators (Fig.7 and 31), a random number generator (Fig.2), a game surface (1), and information indicator having indicia indicating properties of playing pieces (33a-l).

Dewa teaches all limitations except that it does not teach spherical pieces.

Gilmore teaches spherical pieces in different colors (3:19-40).

In playing board games the shape, size and appearances are configured differently to identify the owner of the playing piece. In that whether the game pieces are spherical, conical or any other shape do not change the game as such.

Whereas some players like to use flat pieces others like to use three-dimensional playing pieces. In order to create a variation and to attract other players, it would have

Art Unit: 3711

been obvious to use spherical playing pieces with distinguishing characters for different players.

One of ordinary skill in art at the time the invention was made would have suggested providing spherical playing pieces for attracting other players.

Applicant may note that claims 35-40 are apparatus claims and rules for playing such as "assigning values, modifying values" do not further limit the apparatus in the claims.

3. Claims 27-32 rejected under 35 U.S.C. 103(a) as obvious over Dewa (6585265) in view of Gilmore (4030762).

Dewa teaches a plurality of playing pieces with visible character (Fig.6A-D, 29), information indicators (Fig.7 and 31), a random number generator (Fig.2), and information indicator having indicia indicating properties of playing pieces (33a-l).

Dewa further teaches method steps of placing playing pieces on a playing field (10:55-59), attacking and using a dice (abstract). Placing a piece on field (12:7-11) is being interpreted as attacking from outside as in applicant's claim 31.

Dewa teaches all limitations except that it does not teach spherical pieces.

Gilmore teaches spherical pieces in different colors (3:19-40).

In playing board games the shape, size and appearances are configured differently to identify the owner of the playing piece. In that whether the game pieces are spherical, conical or any other shape do not change the game as such.

Whereas some players like to use flat pieces others like to use three-dimensional playing pieces. In order to create a variation and to attract other players, it would have

Art Unit: 3711

been obvious to use spherical playing pieces with distinguishing characters for different players.

One of ordinary skill in art at the time the invention was made would have suggested providing spherical playing pieces for attracting other players.

4. Claims 27-34 rejected under 35 U.S.C. 103(a) as obvious over Moore (5820126) in view of Gilmore.

Moore teaches a plurality of playing pieces with visible character (4:9-18), information indicators (cards 58), a random number generator (5:9-12), and information indicator having indicia indicating properties of playing pieces (58).

Moore further teaches method steps of placing playing pieces on a playing field (4:59-60), attacking and using a dice (4:59 thru 5:22), attacking from outside (character 20 launch pad is outside the playing field 42).

Moore teaches all limitations except that it does not teach spherical pieces.

Gilmore teaches spherical pieces in different colors (3:19-40).

In playing board games the shape, size and appearances are configured differently to identify the owner of the playing piece. In that whether the game pieces are spherical, conical or any other shape do not change the game as such.

Whereas some players like to use flat pieces others like to use three-dimensional playing pieces. In order to create a variation and to attract other players, it would have been obvious to use spherical playing pieces with distinguishing characters for different players.

Art Unit: 3711

One of ordinary skill in art at the time the invention was made would have suggested providing spherical playing pieces for attracting other players.

Response to Arguments

5. Applicant's arguments with respect to claims 21-40 have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (571) 272-4426. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

Art Unit: 3711

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on (571) 272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vishu K Mendiratta
Primary Examiner
Art Unit 3711

VKM
February 25, 2005